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5 **UNITED STATES DISTRICT COURT**  
6 **DISTRICT OF NEVADA**

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8 JUAN CARLOS RIVERA,

9  
10 Plaintiff,

11 vs.

12 BERGELECTRIC CORPORATION and  
13 MARCUS GARCIA,

14 Defendants.  
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2:08-CV-01176-PMP-LRL

**ORDER**

16 Before the Court for consideration is Defendant Bergelectric Corporation's  
17 Motion to Dismiss Based on Plaintiff's Failure to Attend his Deposition, or  
18 Alternatively, to Compel Plaintiff to Complete his Deposition and Motion to Extend  
19 Discovery and Motion Deadlines (Doc. #41), filed on September 9, 2010.

20 Also before the Court is Plaintiff Rivera's Letter/Motion to Continue his  
21 Deposition (Doc. #40). The foregoing motions come on the heels of an Order (Doc.  
22 #39) entered July 28, 2010, by the Honorable Lawrence R. Leavitt, United States  
23 Magistrate Judge compelling Plaintiff to complete his deposition. Notwithstanding  
24 Judge Levitt's Order, Plaintiff Rivera takes the position in his Letter/Motion (Doc.  
25 #40) filed September 1, 2010, that "there is no possible way that Plaintiff can commit  
26 to a deposition for a second time."

1 Having read and considered Defendant's fully briefed Motion to Dismiss  
2 (Doc. #41), including the contents of Plaintiff's Opposition (Doc. #44) filed  
3 September 15, 2010, and Plaintiff's Letter/Motion to Continue Deposition  
4 (Doc. #40) filed September 1, 2010, it is apparent to the Court that Plaintiff Rivera  
5 has no intention of complying with the prior Orders of this Court that he complete  
6 his deposition as ordered by Judge Leavitt (Doc. #39). Plaintiff Rivera's actions  
7 negate the expeditious resolution of this litigation and the Court's ability to manage  
8 its docket. Defendants are clearly prejudiced by Plaintiff's refusal to complete the  
9 discovery process in this case. Notwithstanding the public policy favoring  
10 disposition of cases on their merits, the Court finds that the sanction of dismissal of  
11 Plaintiff's Complaint pursuant to Rule 37 of the Federal Rules of Civil Procedure is  
12 warranted in this particular case.

13 **IT IS THEREFORE ORDERED** that Defendant Bergelectric  
14 Corporation's Motion to Dismiss Based on Plaintiff's Failure to Attend his  
15 Deposition, or Alternatively, to Compel Plaintiff to Complete his Deposition and  
16 Motion to Extend Discovery and Motion Deadlines (Doc. #41) is **GRANTED**.

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18 DATED: October 6, 2010.

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21 PHILIP M. PRO  
22 United States District Judge  
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